

Remarks

For the Claims:

Applicant submitted claims 8-14 and 16 in connection with a Request for Continued Examination, dated 16 June 2006. A non-final Office Action, mailed 14 September 2006, rejected claims 8-14 and 16. An Amendment, dated 27 November 2006, amended claim 8 and retained claims 9-14 and 16 as previously presented. A Final Office Action, filed in response to the 27 November 2006 Amendment, maintains the rejection of claims 8-14 and 16. In an Amendment, dated 18 June 2007, accompanying a second Request for Continued Examination, dated 18 June 2007, claims 8, 10-13, and 16 were amended and claims 9 and 14 were retained as previously presented. This Non-final Office Action rejects all claims, i.e., claims 8-10, 12-14, and 16. Applicant amends claims 8 and 12, and retains claims 9, 10, 13, 14, and 16 as previously submitted. Applicant respectfully requests reconsideration in view of the modifications to the claims and the following remarks.

This Office Action rejects claims 8-10, 12-14, and 16 under 35 U.S.C. §112, second paragraph, as being indefinite. Regarding claim 8, the Office Action alleges that the phrase "allowing one of the builders to select from the loan website a desired lender..." is indefinite. Claim 8 is being amended in accordance with the Examiner's suggestion to recite "selecting from the loan website a desired lender, the selecting operation being performed by one of the builders..." Further regarding claim 8, the Office Action alleges that the phrase "automatically transferring to a lender website of the desired lender via a link on the loan website..." is indefinite. Claim 8 is being further amended in accordance with the Examiner's suggestion to recite

"automatically transferring the builder to a lender website of the desired lender via a link on the loan website..."

Regarding claim 12, the Office Action alleges that the phrase "contingency fund" renders the claim indefinite. The Office Action indicates that the phrase "contingency fund" cannot be found in the specification, but instead, finds the phrase "contingency/change order" which appears to be a line item budget amount and not an actual fund. Claim 12 is being amended to replace the phrase "contingency fund" with the phrase "contingency and change order line item budget amount" to correlate with the specification.

Applicant believes the modifications to claims 8 and 12 render them definite. As such, claims 9, 10, 13-14, and 16 are believed to be definite based upon their dependency from claim 8. Applicant respectfully requests withdrawal of the rejection of claims 8-10, 12-14, and 16 under 35 U.S.C. §112, second paragraph.

Claims 8-10 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ingram et al, U.S. Publication No. 2002/0077967 (hereinafter Ingram) in view of LendingTree.com, www.lendingtree.com, taken from WebArchive.org, 20 June 2000, and downloaded on 6 September 2007 (hereinafter LendingTree).

The Office Action alleges that Ingram teaches an automated construction loan administration system in which a builder goes to its respective website and requests to apply for a loan. The Office Action further alleges that Ingram teaches that the builder submits a detailed description of the project plan and approving the construction loan, and that once approved for the loan, the builder would take advantage of the dynamic draw request and performing the funding. The Office Action

acknowledges that Ingram fails to teach that the website contains a list of desired lenders, and in response to selection of a desired lender, automatically transferring the builder to a lender website for approval of the loan.

The Office Action alleges that LendingTree teaches the ability to click on the available lenders and be directed to a lender website. The Office Action further alleges that LendingTree teaches the use of a Q-Form to provide information about the desired loan and teaches the ability to negotiate directly with the lender by leaving LendingTree.com to finalize the loan, and then return to LendingTree.com to update the records. The Office Action also alleges that LendingTree further teaches that the lenders obtain credit information before authorizing the loan. The Office Action then concludes that it would have been obvious to modify the construction loan teachings of Ingram to include the ability to leave a loan website and communicate directly with the lender as taught by LendingTree because it allows for processing and authorizing the loan in an efficient and expedient manner by having direct communications between the lender and the borrower.

Applicant disagrees with the Examiner's assessment of the LendingTree teachings. Regarding independent claim 8, Applicant respectfully asserts that 1) LendingTree does not teach or suggest the claimed feature of the builder selecting a desired lender from a list of lenders on the website; 2) nor does LendingTree teach or suggest the claimed feature of the builder being automatically transferred to a lender website of the desired lender, in response to selection of the desired lender, the lender website containing a credit application form for the lender; and 3) nor does Lending Tree teach or suggest the claimed feature of the builder electronically submitting builder

information to the desired lender using the credit application form.

LendingTree expressly teaches that it is an online loan center that connects a borrower, e.g., the claimed builder, to a network of lenders who compete for the user's business (see FAQ, page 1). The borrower, e.g., the claimed builder, fills out a LendingTree online Q-form. The Q-form is a series of questions to be completed by the borrower in order to request a loan. LendingTree selects up to four lenders from its LendingTree Network and sends the filled out Q-form loan request to those selected lenders. This LendingTree teaching contradicts the recitation in claim 8 of selecting from the loan website a desired lender from a list of lenders, the selecting operation being performed by one of the builders.

LendingTree further teaches that within one business day, the lenders selected by LendingTree can respond with a decision about the builder's loan request (see FAQ, page 1). The decision can be an offer or it can be failure to qualify for a loan (see FAQ, page 3). Once a borrower has received one or more offers from the lenders selected by LendingTree, the borrower can negotiate directly with the one or more lenders. LendingTree teaches that it gives the borrower the opportunity to negotiate with the lender through the LendingTree website. LendingTree further teaches (see FAQ, page 3) that when the borrower receives one or more loan offers, LendingTree provides the borrower with contact information for each lender. The borrower can then use that contact information to directly discuss different loan programs. This LendingTree teaching contradicts the recitation in claim 8 of "in response to selection of the desired lender from the loan website, automatically transferring the builder to a lender website of the desired lender via a link on the loan website to the lender website" (emphasis supplied).

The general disclosure of giving the borrower the opportunity to negotiate with the lender through the LendingTree website does not specify or otherwise imply automatically transferring the builder to a lender website. Rather, the borrower likely fills out blanks or answers questions within the LendingTree website, and that information may then be forwarded to the lender. Similarly, the general disclosure of LendingTree providing the borrower with contact information for each lender does not specify or otherwise imply the claim 8 recitation of automatically transferring the borrower to a lender website via a link on the loan website. Rather, this contact information can be in a variety of forms, such as a mailing address, e-mail address, or telephone number (see FAQ, page 4) through the express LendingTree disclosure that once a borrower has accepted an offer, the builder needs to communicate with the lender directly (via mail, e-mail, or phone). Even though LendingTree mentions various means for communication between a borrower and a lender, LendingTree actually fails to mention direct communication via a lender website. Thus, there is no disclosure or suggestion of links to lender websites within the LendingTree website.

Since LendingTree is accessible via the Web, Applicant toured the LendingTree website to gain a further understanding of LendingTree. Applicant found a list of lenders through a LendingTree Lender Scorecard listing (www.lendingtree.com/stm3/lenders/scorecard.asp). The Lender Scorecard serves as a resource to gain additional information about particular lenders within the LendingTree Network. The Lender Scorecard provides a ranking of each lender in a variety of customer satisfaction categories. Each Lender listed in the scorecard was linked to another webpage that provides a general lender profile and consumer rating. However, these webpages are

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part of the LendingTree Network and are not actually the lender's website. Nor do they contain anything resembling a credit application form for the lender. Furthermore, a borrower cannot be "automatically transferred" to one of these LendingTree Lender Scorecard webpages. Rather, the borrower has to take positive action to select one of the webpages in order to ascertain that lender's profile and consumer rating.

Commensurately, LendingTree also fails to teach or suggest the claim 8 feature of submitting electronically, by the one builder, builder information pertinent to the one builder using the credit application form for the lender contained at the lender's website. The Office Action mentions the use of a Q-form to provide information about a desired loan. However, it should be noted that the LendingTree Q-form is not a credit application form for the lender. Nor is the Q-form contained at the lender website. Rather, the Q-form is a loan request form for LendingTree and is contained at the LendingTree website. Any information entered by the borrower in the Q-form can be disseminated to the multiple lenders selected by LendingTree. This LendingTree disclosure of the Q-form constitutes a failure to teach or suggest submitting electronically, by the one builder, information about the desired loan using the credit application form (for the lender and contained at the lender website, as claimed) notwithstanding Office Action allegations to the contrary.

LendingTree does mention that the borrower will need to communicate with the lender directly and will also need to sign the "official application forms" (see FAQ, page 4). Presumably, these "official application forms" correspond to the lender's own forms, i.e., the credit application form for the lender. However, since LendingTree teaches that direct communication can take place via a number of channels (mail, e-mail, or phone), it

does not necessarily follow that builder information is submitted electronically using the credit application form for the lender contained at the lender website. Indeed, LendingTree never even mentions the lender's own website. Accordingly, LendingTree fails to teach the claim 8 feature of submitting electronically builder information pertinent to the one builder using the credit application. Rather, any suggestion to do so is found only in Applicant's specification.

Well-established patent practice dictates that the test for obviousness is not whether references may be combined, but rather whether the combined teachings render the claimed subject matter obvious. Ingram and LendingTree each teach of facilitating the administration of loans. Thus, one might postulate that features of LendingTree may be bodily incorporated into Ingram. However, such a hypothetical combination is irrelevant if the combined teachings fail to render Applicant's invention obvious. As stated in In re Wood, 202 USPQ 171, 174 (C.C.P.A. 1979):

The test for obviousness is not whether the feature of one reference may be bodily incorporated into another reference....Rather, we look to see whether combined teachings render the claimed subject matter obvious.

Applicant respectfully asserts that even if the teachings of Ingram and LendingTree were somehow combined, the resulting combination would fail to render obvious Applicant's invention of independent claim 8. Indeed, full and fair consideration of the Ingram and LendingTree references reveals the fallaciousness of the obviousness rejection set forth in the Office Action. Such an argument is fallacious because nothing in either of the Ingram or LendingTree teaches or suggests the claimed features of the builder selecting a desired lender from a list of lenders on the website, automatically transferring the builder to a lender website of the desired lender, in response to selection of the

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desired lender, the lender website containing a lender's credit application form, and the builder electronically submitting builder information to the desired lender using the credit application form. Since the prior art does not teach or suggest those claimed features, a combination of Ingram and Lending Tree cannot render obvious that which is neither taught nor suggested by the prior art.

For the reasons set forth above, Applicant believes amended independent claim 8 to be allowable. Claims 9, 10, and 14 depend directly or indirectly from claim 8 and are allowable by reason of dependency. Applicant respectfully requests withdrawal of the rejection of claims 8-10 and 14 under 35 U.S.C. §103(a) as being unpatentable over a combination of Ingram and LendingTree.

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ingram in view of LendingTree and further in view of Project Management. Claims 13 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ingram in view of LendingTree and further in view of Pacifica. Claims 12, 13, and 16 depend from claim 8 and are believed to be allowable for the reasons set forth above. As such, Applicant respectfully requests withdrawal of the rejections of claims 12, 13 and 16 under 35 U.S.C. §103(a).

Accordingly, this Amendment amends claims 8 and 12. Currently amended claims 8 and 12 remain in the application and are believed to be allowable. In addition, claims 9, 10, 13, 14, and 16 remain in the application as previously submitted and are believed to be allowable.

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Applicant believes that the foregoing amendments and remarks are fully responsive to the rejections recited in the 19 September 2007 Office Action and that the present application is now in a condition for allowance. Accordingly, reconsideration of the present application is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jordan M. Meschkow', is written over a horizontal line.

Jordan M. Meschkow
Attorney for Applicant
Reg. No. 31,043

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Jordan M. Meschkow
Meschkow & Gresham, P.L.C.
5727 North Seventh Street, Suite 409
Phoenix, AZ 85014
(602) 274-6996